

Intf. No. 14857 Filed Nov. 39

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IN THE  
**United States Patent Office.**

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AXELSON,  
TEWKSBURY  
and OTT

vs.

J. F. BARBER

vs.

H. R. & T.  
CONYNGTON.

} Interference,  
No. 14,857.

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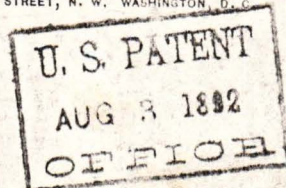
SUBJECT-MATTER: COIN-OPERATED MECHANISM  
FOR PHONOGRAPHS.

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R. S. & A. P. LACEY,  
*Attorneys for*  
*Axelsson, Tewksbury and Ott.*

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## In the United States Patent Office.

IN INTERFERENCE, NO. 14,857.

<p>AXELSON, TEWKSBURY AND OTT vs. J. F. BARBER vs. H. R. &amp; T. CONYNG- TON.</p>	<p>SUBJECT-MATTER: COIN-OPER- ATED MECHANISM FOR PHONOGRAPH.</p>
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### CASES.

1. C. Axelson, G. E. Tewksbury, and S. S. Ott, of Topeka, Kansas, for Coin-Operated Mechanism for Phonographs, filed July 25, 1891; Serial No. 400,683, whose attorney is R. S. & A. P. Lacey of Washington, D. C.
2. J. F. Barber, of Denver, Colorado, for Coin-Controlled Mechanism, filed July 26, 1890, Serial No. 359,985, whose attorney is A. J. O'Brien, of Denver, Colorado; Associate, W. E. Aughinbaugh, Washington, D. C.
3. H. R. and T. Conyngton, of Galveston, Texas, for Coin-Operated Phonograph, filed July 12, 1890, Serial No. 358,590, whose attorney is F. L. Browne, of Washington, D. C.
4. J. F. Barber, of Denver, Colorado, for Coin-Controlled Mechanism, filed June 2, 1890, Serial No. 354,023, whose attorney is A. J. O'Brien, of Den-



ver, Colorado, with W. E. Aughinbaugh, of Washington, D. C., as associate.

The issue remains the same, and covers substantially the claims 8 and 14 of Axelson, Tewksbury and Ott's application; claim 11 of the Conyngton's application; claims 3, 8, 9, 10 and 11 of Barber's earlier application; and claims 3 to 7 inclusive, of Barber's later application.

LOUIS W. MAXSON,  
*Examiner.*

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IN THE UNITED STATES PATENT OFFICE.

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IN INTERFERENCE.

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AXELSON, TEWKSBURY AND OTT vs. J. F. BARBER, H. R. & T. CONYNGTON.	}	No. 14,857.
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PRELIMINARY STATEMENT OF CHARLES AXELSON, GEORGE  
E. TEWKSBURY AND SIMON S. OTT, FILED  
DECEMBER 10, 1891.

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In the above entitled cause personally appeared before me Charles Axelson, George E. Tewksbury and Simon S. Ott, who being duly sworn, state:

*First.* That they conceived the invention in controversy on or about May 15th, 1890.

*Second.* That they made no complete drawings of the invention at that time, but that subsequently sketches were made on board, paper, and other convenient material for working use.

*Third.* That they explained the invention to others in the month of September, 1890.

*Fourth.* That they made the first model of the invention on or about September 20th, 1890; that they subsequently made other models and these were exhibited publicly at various times and in various places.

*Fifth.* That they made a complete operating machine on or about October 15th, 1890.

*Sixth.* That they have made one hundred and eighty-three machines which are in successful operation, and have been so operated for months past.

CHARLES F. AXELSON,  
GEO. E. TEWKSBURY,  
SIMON S. OTT.

Sworn to and subscribed before me this 1st day of December, 1891.

A. B. POOLE,  
*Notary Public.*

My commission expires September 18th, 1894.

[SEAL.]

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PRELIMINARY STATEMENT OF TEWKSBURY AND OTT,  
FILED JANUARY 19, 1892.

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In the above entitled cause personally appeared be-



fore me George E. Tewksbury and Simon S. Ott, who, being duly sworn, states:

*First.* That they conceived the invention in controversy on or about May 15th, 1890.

*Second.* That they made no complete drawings of the invention at that time, but that subsequently on or about the 6th day of September, 1890, sketches were made on board, paper and other convenient material for working use.

*Third.* That they explained the invention to others in the month of September, 1890.

*Fourth.* That they made the first model of the invention on or about September 20th, 1890; that they subsequently made other models and these were exhibited publicly at various times and in various places.

*Fifth.* That they made a complete operating machine on or about October 15th, 1890.

*Sixth.* That they have made one hundred and eighty-three machines which are in successful operation, and have been so operated for months past.

GEORGE E. TEWKSBURY,  
SIMON S. OTT.

Sworn to and subscribed before me this 8th day of January, 1892.

A. B. POOLE,  
*Notary Public.*

Term expires September 18th, 1894.

[SEAL.]

STATE OF KANSAS,  
County of Shawnee. } ss.:

Simon S. Ott, of the County of Shawnee and State of Kansas, being of lawful age and being first duly sworn, deposes and says: That Charles Axelson is now, and has been for several weeks last past, away from his home, and is at some point between this city, (Topeka, Kansas) his home, and the Pacific Coast, where he is spending a vacation and is not expected to return until or about the 19th day of January, A. D. 1892, and that it is impossible to obtain his affidavit and signature to a certain preliminary statement in cases No. 14,856 and 14,857, now pending before the Commissioner of Patents in Washington, D. C., and to be filed with said commissioner on or before the 20th day of January, 1892, and further deponent saith not.

SIMON S. OTT.

Subscribed and sworn to before me this 14th day of January, A. D. 1892.

A. B. POOLE,  
*Notary Public.*

Term expires September 18th, 1894.

[SEAL.]

We, R. S. & A. P. Lacey, attorneys for Axelson, Tewksbury and Ott in the two interferences numbered respectively 14,856 and 14,857, certify that the above is a true copy of an affidavit of Simon S. Ott, the original of which is filed in the interference numbered 14,856, and that the said affidavit is applicable to this case No. 14,856.

WASHINGTON, D. C., January 18th, 1892.



PRELIMINARY STATEMENT OF AXELSON, TEWKSBURY AND  
OTT, FILED FEBRUARY 5, 1892.

In the above entitled cause personally appeared before me, Charles Axelson, George E. Tewksbury and Simon S. Ott, who being duly sworn, states:

*First.* That they conceived the invention, in controversy on or about May 15th, 1890.

*Second.* That they made no complete drawings of the invention at that time, but that subsequently on or about the 1st day of September, 1890, sketches were made on-board, paper, and other convenient material for working.

*Third.* That they explained the invention to others in the month of September, 1890.

*Fourth.* That they made the first model of the invention on or about September 20th, 1890; that they subsequently made other models and these were exhibited publicly at various times and in various places.

*Fifth.* That they made a complete operating machine on or about October 15th, 1890.

*Sixth.* That they have made one hundred and eighty-three machines which are in successful operation, and have been so operated for months past.

SIMON S. OTT,  
GEO. E. TEWKSBURY,  
CHARLES AXELSON.

Sworn to by S. S. Ott and George E. Tewksbury and

subscribed before me this 26th day of January, 1892.

A. B. POOLE,  
Notary Public.

Term expires September 18, 1894.

[SEAL.]

Sworn to and subscribed by Charles Axelson, before me this 20th day of January, 1892.

I. G. MARKS,  
Notary Public.

Commission expires August 6th, 1892.

[SEAL.]

NOTICE OF TAKING TESTIMONY.

TOPEKA, KANSAS, *February* 27, 1892.

*In the matter of the interference No. 14,857, between the application of CHAS. AXELSON, GEORGE E. TEWKSBURY and SIMON S. OTT, for a patent for a coin-operated mechanism for phonographs, filed the 24th day of July, 1891, and Conyngton & Conyngton, now pending before the Commissioner of Patents.*

SIR: You are hereby notified that on Tuesday, March 15th, 1892, at the office of Ott & Tewksbury, No. 111 West Ninth Street, Topeka, Kansas, at nine o'clock in the forenoon, we shall proceed to take the testimony of Thomas Parkinson, William Parkinson, E. S. Gresser, O. A. Holcomb, A. B. Poole, Gerge D. Hale, and Gerge R. Mellice, all of Topeka, as witnesses in our behalf.



The examination will continue from day to day until completed. You are notified to attend and cross-examine.

R. S. & A. P. LACEY,  
*Attorneys for Axelson, Tewksbury & Ott.*

To F. L. BROWNE,  
Washington, D. C.

Service of the above notice acknowledged this 4th day of March, 1892.

F. L. BROWNE,  
*Attorney for Coyngton & Coyngton.*

AFFIDAVIT OF SIMON S. OTT.

STATE OF KANSAS, } ss.:  
Shawnee County.

Simon S. Ott, of the City of Topeka, Shawnee County, Kansas, of lawful age, being first duly sworn, on oath deposeeth and saith: That he is one of the parties to the case of interference, No. 14,857, now pending before the Commissioner of Patents at Washington, D. C. That John F. Barber is a party to the same interference; that on the 29th day of February, 1892, deponent sent to A. J. O'Brien, attorney of record for said Barber, at Denver, Colorado, a notice of the time and place of taking testimony on behalf of Axelson, Tewksbury and Ott, in the case of interference No. 14,857, a copy of which notice is hereto attached, marked Exhibit A, and made part of this affidavit; that said notice was sent by registered letter to said O'Brien, at Denver, Colorado, and that he received from the postmaster at Topeka, registry receipt No. 1206, therefor, a copy of which registry

receipt is hereto attached, marked Exhibit "B," and made a part of this affidavit.

Deponent further says that in due course of mail, he received a receipt through the Post-Office at Topeka, Kansas, signed by A. J. O'Brien, being receipt No. 1206, and which is the receipt of said A. J. O'Brien for the registered letter sent him as aforesaid, a copy of said receipt is hereto attached, marked Exhibit "C," and made a part of this affidavit.

And deponent further says that said registered letter contained two notices, one for the taking of testimony on behalf of Axelson, Tewksbury and Ott, in interference No. 14,857, and the other for the taking of testimony on behalf of the same parties in interference No. 14,856, to which said John F. Barber is also a party, and that said receipt is attached to the deposition of deponent in said interference No. 14,856.

SIMON S. OTT.

Subscribed and sworn to before me this 25th day of July, 1892.

C. H. NETTELS,  
*Notary Public.*

My commission expires April 25th. 1895.

EXHIBIT "A."

NOTICE OF TAKING TESTIMONY.

TOPEKA, KANSAS, *February 27, 1892.*

*In the matter of the interference between the application of CHARLES AXELSON, GEORGE E. TEWKSBURY,*



and SIMON S. OTT, for a patent for Coin-Operated Mechanism for Phonographs, filed the 25th day of July 1891, and JOHN F. BARBER, now pending before the Commissioner of Patents.

**SIR :** You are hereby notified that on Tuesday, March 15th, 1892, at the office of Ott & Tewksbury, No. 111 West Ninth Street, Topeka, Kansas, at nine o'clock in the forenoon, we shall proceed to take the testimony of Thomas Parkinson, William Parkinson, E. S. Gresser, O. A. Holcomb, A. B. Poole, George D. Hale, and George R. Millice, all of Topeka, as witnesses in our behalf.

**The** examination will continue from day to day until completed. You are notified to attend and cross-examine.

AXELSON, TEWKSBURY & OTT,  
By W. R. Hazen, their Attorney.

#### EXHIBIT "B."

**E**xhibit B to deposition of Simon S. Ott, Interference No. 14,857.

Registered Letter } No. 1206. Rec'd 2, 29, 1892.  
Parcel. }

of - - - - -  
- - - - -  
addressed to - Ott & Tewksbury, - - - - -  
- - - - - A. J. O'Brien, - - - - -  
- - - - - Denver, Colo. - - - - -  
Sent in Reg- P'kge No. 1166, P'kge Rec'pt ret'd J. L.  
King,

C.

Reg. bill ret'd or - - - Circular of inquiry sent.  
ack'gt rec'd.

These stubs or accounts are to be filled out, first with date, registry number, name and address of sender, name and address of letter or parcel. Receipt is then to be properly filled out, detached and given to sender. Erase letter or parcel before Reg. No. so that account and receipt indicate properly what is sent.  
Ex. A. C. H. N.

A true copy of the original receipt, attached to the deposition of Simon S. Ott, in interference No. 14,856

C. H. NETTELS,  
Notary Public.

My Commission expires April 6th, 1895.  
[SEAL.]

#### EXHIBIT "C."

Exhibit "C," to deposition of Simon S. Ott. Interference, No. 14,857.

When the registered letter or parcel accompanying this card is delivered, the Postmaster will require signature to the receipt on the other side, also on his record of registered deliveries and mail this card without cover to address below.

A penalty of \$300 is fixed by law for using this card for other than official business.

POST OFFICE DEPARTMENT. ) Stamp here name  
Post Office at ) of post office.  
Official Business. ) and date of de-  
livery.

#### RETURN TO

Name of sender OTT & TEWKSBURY,



Street and number,

Or post office box - - - - -

POST OFFICE AT TOPEKA,

County of Shawnee, State of Kansas.

Ex. B, C. H. N.

Reverse side.

REGISTRY RECEIPT SENT 2, 29, 1892.

Reg. No. 1206. From Post Office at Topeka, Kans.

Reg. Letter Addressed to A. J. O'Brien,  
Reg. Parcel. Post Office at Denver, Colo.

After obtaining receipt below, the Postmaster will mail this card, without cover and without postage, to address on the other side.

RECEIVED THE ABOVE DESCRIBED REGISTERED \*Letter.  
(Sender's name on other side) Parcel. 11386.

Sign on dotted lines to the right. ) A. J. O'Brien,  
When delivery is made to other ).....  
than addressee, the name of both )By Wm. McConnell  
addressee and recipient must appear.).....

\*Erase letter or parcel according to which is sent.

A true copy of the original receipt, attached to deposition of Simon S. Ott, in interference, No. 14,586.

C. H. NETTELS,  
Notary Public.

My commission expires April 6th, 1895.

NOTARY'S CERTIFICATE.

STATE OF KANSAS, } ss.:  
Shawnee County }

I, C. H. Nettels, a notary public, within and for the County of Shawnee, in the State of Kansas, do hereby certify that the two papers marked respectively "Exhibit B and Exhibit C," attached to the affidavit of Simon S. Ott, of this date, and bound herewith, are full, true and literal copies of registry receipts introduced in evidence as a part of the deposition of Simon S. Ott, taken before me on the 15th and 16th days of March, 1892, on behalf of Axelson, Tewksbury & Ott, in the matter of interference No. 14,857, pending before the Commissioner of Patents, to which John F. Barber is a party; that said Registry Receipts were also introduced in evidence as a part of the deposition of Simon S. Ott, on behalf of Axelson, Tewksbury & Ott, taken before me on the 15th day of March, 1892, in the matter of interference No. 13,856, to which said John F. Barber is also a party; that said Registry Receipts are attached to last named deposition, and are, therefore, omitted from the deposition of said Simon S. Ott in interference No. 14,587, aforesaid.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal this 25th day of July, 1892.

C. H. NETTELS,  
Notary Public.

My Commission expires April 6th, 1895.

[SEAL.]



## BEFORE THE COMMISSIONER OF PATENTS.

AXELSON, TEWKSBURY	}	INTERFERENCE, No. 14,857.
AND OTT		
<i>vs.</i>		
CONYNGTON & CONYNG-		
TON		
<i>vs.</i>		
JOHN F. BARBER.		

Deposition of witnesses examined on behalf of Axel-  
son, Tewksbury and Ott, pursuant to annexed  
notice, at the office of Ott & Tewksbury, at No. 111  
West Ninth Street, in the City of Topeka, Kansas,  
on Tuesday, the fifteenth day of March, A. D.  
1892.

Present: W. R. Hazen, Esq., on behalf of Axel-  
son, Tewksbury and Ott. Conyngton & Conyng-  
ton, and John F. Barber were not present, either  
in person, or by attorney, and after waiting one  
hour, and no person appearing in their behalf,  
the taking of said testimony, pursuant to attached  
notice, was commenced at 4:50 o'clock P. M. of  
said day.

## SIMON S. OTT.

Simon S. Ott, of lawful age, being by me first duly ex-  
amined, cautioned and solemnly sworn to testify  
the truth, the whole truth, and nothing but the  
truth, in answer to interrogatories proposed to  
him by W. R. Hazen, Esq., counsel for Axelson,  
Tewksbury and Ott, deposeth and saith:

Question 1. State your name, age, place of residence,  
and occupation.

Answer. My name is Simon S. Ott; age forty-six;  
residence, Topeka, Kansas; occupation, one of the  
managers of the Kansas Phonograph Company.

The hour of 5 o'clock P. M. having arrived, the fur-  
ther taking of testimony in this interference, in accord-  
ance with the foregoing annexed notice, is now  
adjourned until 2 o'clock P. M. of Wednesday, March  
sixteenth, A. D. 1892.

Wednesday, March sixteenth, A. D. 1892, 2 o'clock  
P. M. The taking of testimony in this interference,  
is now resumed, pursuant to the adjournment of last  
evening. Direct-examination of Simon S. Ott, Esq.,  
resumed by W. R. Hazen, Esq., counsel for Axelson,  
Tewksbury and Ott.

Q. 2. You may state whether you are the same per-  
son as the S. S. Ott, one of the joint applicants for a  
patent for a Coin-Operated Mechanism for Phono-  
graphs, filed with the Commissioner of Patents July  
25th, 1891?

A. I am.

Q. 3. State if you served a notice on John F. Bar-  
ber of the taking of testimony in this interference  
in this city on the fifteenth day of March, 1892?

A. I served a notice on A. J. O'Brien, his attorney.

Q. 4. Examine the paper which I now hand you  
and state if that is a copy of the notice that you  
served upon A. J. O'Brien, attorney for John F. Barber?

A. That is a copy of the notice.

Q. 5. State how the service was made?

A. It was by registered letter.

At the request of W. R. Hazen, Esq., counsel for  
Axelson, Tewksbury and Ott, the copy of notice so  
identified by the witness is marked by the Notary  
"Ex. A. C. H. N.," is attached hereto, and made a part  
of the deposition of the witness, Simon S. Ott.

Q. 6. You may state what the paper marked "Ex.



A. C. H. N." attached to your deposition in interference No. 14,856, taken on the fifteenth day of March, A. D. 1892, is.

A. That is the receipt which I received from the postmaster at Topeka, Kansas, when I sent the registered letter containing the notices to take depositions in interferences No. 14,586 and 14,587; to A. J. O'Brien, attorney for John F. Barber, at Denver, Colorado.

At the request of W. R. Hazen, Esq., counsel for Axelson, Tewksbury and Ott, a certified copy of the receipt so identified by the witness, and which is attached to his deposition in interference, No. 14,586, is prepared by the Notary, marked Ex. "B," attached hereto, and made a part of this deposition of the witness Simon S. Ott.

Q. 7. What is the paper or card marked "Ex. B, C. H. N." attached to your deposition in interference, No. 14,586, taken on the fifteenth day of March 1892.

A. That is the receipt received by me from A. J. O'Brien, by William McConnell, through the Topeka post office, of the delivery of the letter containing the notices which I sent to him of the taking of testimony in this interference and in Interference, No. 14,586.

At the request of W. R. Hazen, Esq., counsel for Axelson, Tewksbury and Ott, a certified copy of the receipt so identified by the witness, and which is attached to his deposition in Interference, No. 14,586, is prepared by the Notary, marked Exhibit "C," attached hereto, and made a part of this deposition of the witness Simon S. Ott.

Q. 8. State when the invention of the Coin-Operated Mechanism for phonographs was first conceived by the applicants for the patent above referred to?

A. It was during the early part of the year 1890, and prior to the fifth day of May of that year.

Q. 9. State how you know it was as early as the date you have stated?

A. A Mr. Lloyd of Joplin, Missouri, Mr. Tewksbury and myself, had undertaken to do certain work in the State of Kentucky, and I was to meet Mr. Lloyd in St. Louis for the purpose of buying some machinery to do this work, and after having spent a portion of the day in the city, I wrote a letter and sent a small memento to my father, it being his birthday, which was on the fifth day of May 1890, and the conception of this invention was prior to that time, as having frequently been talked over by Mr. Tewksbury and myself.

Q. 10. State whether this invention of a Coin-Operated Mechanism for Phonographs, which you state was conceived by the applicants as early as May fifth, 1890, contained the combination with a phonograph, its motor, and a circuit in which the motor lies, of a circuit-breaker connected with the phonograph-carriage, and mechanism for raising the diaphragm, and reversing the carriage, said raising and reversing mechanism being actuated from the main shaft of the instrument?

A. It did.

Q. 11. Did you make any complete drawings of the invention at the time you state you conceived the invention, and if not, did you make any subsequent to that time, and if so, state what drawings you made?

A. Prior to that date, drawings were made in part and in whole at various times, but no complete drawings were made of the invention until during the month of June, 1891, when a draughtsman, Mr. William Spielden of Washington, D. C. was employed to make drawings from the completed or perfected machine. Working drawings were made at various times during the early months in 1890, and more complete drawings in the month of August, when Mr. Parkinson was employed to build a complete machine.

Q. 12. State the character of those early sketches or drawings that were made by you, and what time they were made, relative to the fifth day of May, 1890?

A. Sketches were made at different times prior to the fifth day of May, 1890. They were made on scratch-books or waste-paper in the office, or large sheets of manilla wrapping-paper procured for that



purpose, and others were made on pine-boards with one side surfaced so as to have a smooth surface, and were made in the same way that I have seen mechanics make them on both paper and boards in their working apartments.

Q. 13. State whether you explained this to others in the month of September, 1890, and if not then, state when you did explain it to others, if at all?

A. It was disclosed to a Mr. A. B. Poole, and a Mr. E. S. Gresser during the earlier part of 1890, and fully disclosed to Mr. Parkinson during the month of August, 1890.

Q. 14. You may state whether you explained this invention to the parties you have named at more than one time, and canvassed the subject with them?

A. It was explained to them quite a number of times as early as the first of May, 1890, and subsequently.

Q. 15. Now, you may state when you made the first model of this invention?

A. The work on the first model was begun during the last days of August, 1890, and completed about the date that the State Fair was held in Topeka that year, which was on the twelfth day of September, 1890. I know this from the fact that Mr. Parkinson wanted to use a phonograph with which to test the machine that he had made, and we did not want to let him have it until after the State Fair had closed, as we were using the phonograph on the fair grounds for exhibition purposes.

Q. 16. State whether or not you made other models, and if so, whether they were exhibited publicly at various times and in various places?

A. We made other models of the machine, and each of them in succession was publicly exhibited with the phonograph at various business places in the City of Topeka. The first one, I think, as I remember it now, was exhibited at Fagan Brothers' cigar store at the corner of Eight Street and Kansas Avenue, in this city.

Q. 17. As nearly as you can, tell at what dates your models were constructed, subsequent to the first one which was publicly exhibited as you have described?

A. Each successive model was made immediately

after testing the preceding one. Some of the proportions were slightly changed which did not work altogether satisfactorily, and when the second one was made which did work all right, that was exhibited, and yet another change was made when we built the third one. The exact length of time between these various models I could not state; it depended very largely upon the amount of time we could command of Mr. Parkinson, who was regularly employed in the Capitol Iron Works.

Q. 18. Now, you may state when you first made a complete operating machine?

A. It was about the fifteenth of October 1890.

Q. 19. State whether this machine was placed in successful operation and publicly exhibited, and if so, where, and in the presence of whom, as nearly as you can state?

A. That was placed in a regular cabinet, built specially for that purpose, and placed in the cigar store of Fagan Brothers, in the City of Topeka, and was kept there on exhibition for many months. This was during the Autumn of 1890; I have no means of fixing the date exactly.

Q. 20. State what number of these machines you have had constructed and put into successful operation?

A. At the time we filed our preliminary statement, we had occasion to look up the books to be positive as to the number that were in successful operation at that time, and the aggregate number was one hundred and eighty three. Since then we have had built nearly as many more that are completed, and now in process of construction.

Q. 21. State whether the invention of the combination with a phonograph, its motor, and a circuit in which the motor lies, of a circuit-breaker connected with the phonograph-carriage, and mechanism for raising the diaphragm and reversing the carriage, said raising and reversing mechanism being actuated from the main shaft of the instrument was originally conceived on or about the fifth day of May 1890, and whether any changes have been made in this invention as to this combination, and if so, state what?

A. The original conception of the machine included



the combination mentioned, and has been retained in all subsequent machines built. The proportions of some of the smaller parts of the machine were slightly changed during the time when these models were being built. In the number of machines that were built by the Topeka Stove Repair Foundry no change has been made.

SIMON S. OTT.

---

GEORGE E. TEWKSBURY.

George E. Tewksbury, of lawful age, being first duly examined, cautioned and solemnly by mesworn to testify the truth, the whole truth and nothing but the truth, deposeth and saith in answer to interrogatories proposed to him by W. R. Hazen, Esq., counsel for Axelson, Tewksbury and Ott, as follows, to-wit:

Question 1. State your name, age, place of residence and occupation?

Answer. My name is George E. Tewksbury; age thirty-four; residence, Topeka, Kansas; occupation, one of the managers of the Kansas Phonograph Company.

Q. 2. You may state if you are the same person as the G. E. Tewksbury, one of the joint applicants for a patent for a Coin-Operated Mechanism for Phonographs, filed with the Commissioner of Patents, July 26th, 1891?

A. I am.

Q. 3. State when the invention of the Coin-Operated Mechanism for Phonographs was first conceived by the applicants for a patent above referred to?

A. The conception first took definite shape in the first week of May, 1890, and was completely canvassed in all essential details on the fifteenth day of May of that year.

Q. 4. State how you know it was as early as the date you have mentioned?

A. I had held many conferences on the subject



with S. S. Ott, also one of the joint applicants for this patent, prior to my attendance upon the first convention of phonograph companies, held in the City of Chicago on the twenty-eighth and twenty-ninth days of May, 1890. This is further established in my mind by the fact that a so-called automatic machine which was exhibited at that convention was so radically different in operation from the one that Mr. Ott and I had talked over, that in my judgment it could not succeed for the purpose for which it was built, and I so stated to Mr. Ott directly after the convention.

Q. 5. State whether this invention of a Coin-Operated Mechanism for Phonographs, which you state was conceived by the applicants early in May, 1890, contained the combination with a phonograph, its moter, and a circuit in which the motor lies, of a circuit-breaker connected with the phonograph carriage and mechanism for raising the diaphragm and reversing the carriage, said raising and reversing mechanism being actuated from the main shaft of the instrument?

A. It did.

Q. 6. Did you make any complete drawings of the invention at the time you state you conceived the idea of the invention, and if not, did you make any subsequent to that time, and if so, state what drawings you made?

A. I made a great many sketches, but none of them complete drawings, to illustrate the operation of the machine, and the application of the combination spoken of.

Q. 7. State the character of those early sketches or drawings that were made by you, and what time they were made relative to the fifth day of May, 1890?

A. The first of these were made, probably before the first of May, 1890, and on one particular occasion which I remember, viz: the fifteenth day of May, 1890, an hour's time was spent in draughting, and setting forth the plan of operation which I could not perfectly put on paper. Other sketches were made in the office at subsequent dates, and some of these were preserved several days, but none were permanently kept. Drawings were made on manilla paper, and also on large smooth pieces of inch board. On one



occasion I remember that I held a discussion with A. B. Poole of at least an hour's duration regarding the application of the principle involved.

Q. 8. State whether you explained this to others in the month of September, 1890, and if not then, state when you did explain it to others, if at all?

A. I explained this invention many months before the month of September, 1890, to Mr. Ott and Mr. Poole, and at a later time Mr. Gresser, and still later to Mr. Thomas Parkinson, foreman of the Capitol Iron Works, this last date being in September, 1890, when working drawings were made.

Q. 9. You may state whether you explained this invention to the parties you have named at more than one time, and canvassed the subject with them?

A. A great many times; in fact, the matter was the subject of continual conference during the month of September, 1890, at which time we thought we had completed a perfected machine.

Q. 10. State when the first model of this invention was made as near as you can recollect?

A. It was on the fifteenth day of September, 1890.

Q. 11. State whether various models, other models, were made and exhibited at various times, and in various places?

A. They were.

Q. 12. As nearly as you can, tell at what dates your models were constructed, subsequent to the first one which was publicly exhibited as you have stated?

A. The models followed each other in rapid succession the mechanical defects of one indicating certain modifications as to the proportions which seemed desirable, and as fast as such modifications suggested themselves, they were made. The first operating machine was placed on public exhibition early in the month of October, 1890.

Q. 13. Now, you may state when you first made a complete operating machine?

A. On October 15th, 1890, we had completed a model which we thought answered all necessary requirements, and were satisfied to place it on public exhibition. Previous to that date, however, several complete operative machines were made which for some



cause or other, were not thought satisfactory for practical use.

Q. 14. State at what place this complete operating machine was put on exhibition?

A. At Fagan Brothers' cigar store in the City of Topeka.

Q. 15. State what number of these machines you have had constructed and put into successful operation?

A. About two hundred and seventy-five. One hundred and eighty-three machines had been made up to the time of filing our preliminary statement, all of which were in successful operation except three.

Q. 16. How long prior to the time you filed your preliminary statement had these last named machines been in successful operation?

A. Some of them prior to the fifteenth day of October, 1890, and as the output was increased, the machines were at once put into general use.

Q. 16. State whether the invention of the combination with a phonograph, its motor, and a circuit in which the motor lies, of a circuit-breaker connected with the phonograph carriage, and mechanism for raising the diaphragm and reversing the carriage, said raising and reversing mechanism being actuated from the main shaft of the instrument was originally conceived early in May 1890, and whether any changes have been made in this invention as to this combination, and if so, state what?

A. All the machines have contained the combination spoken of, which was deemed an essential principle of the mechanism. The modifications suggested by experience were only in the line of proportion or material used, but chiefly in the proportions of the working parts.

Q. 18. State by whom these various machines were manufactured for you?

A. The earlier machines were made by Thomas Parkinson, who was the foreman of the Capitol Iron Works in the City of Topeka. The later machines by the Topeka Stove Repair Foundry, also of the City of Topeka.

Q. 19. Who is the manager of the Topeka Stove Repair Foundry?



A. Mr. Omar A. Holcomb, who is a partner of a Mr. Millice in the business ; but it was with Mr. Holcomb, personally, that we negotiated in the first instance.

Q. 20. Were these persons named by you, the managers of the Topeka Stove Repair Foundry at the time, these machines were constructed ?

A. Yes sir, they were.

GEORGE E. TEWKSBURY,

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OMAR A. HOLCOMB,

of lawful age, being by me first duly examined, cautioned and solemnly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to interrogatories proposed to him by W. R. Hazen, Esq., counsel for Axelson Tewksbury and Ott, deposeth and saith :

Question 1. You may state your name, age, residence and occupation.

A. My name is Omar A. Holcomb, age thirty seven; residence, Topeka; occupation, one of the proprietors of the Topeka Foundry.

Q. 2. Did you ever build a Coin-Operated Mechanism for Phonographs for Messrs. Ott & Tewksbury ?

A. Yes sir, I have.

Q. 3. State the number of these machines that you have constructed for Ott & Tewksbury and about the time of their construction as near as you can state it ?

A. We completed the first machine in March 1891, a sample machine, and since then, we have built two hundred and ninety-six machines.

Q. 4. You may state whether this first machine which you constructed for Ott & Tewksbury as you have stated, contained the combination with a phonograph, its motor, and a circuit in which the motor lies, of a circuit-breaker, connected with the phonograph carriage, and mechanism for raising the diaphragm and reversing the carriage, said raising and reversing mechanism being actuated from the main shaft of the instrument ?



A. Yes sir, it contained the same combination.

Q. 5. Did all the other machines that you subsequently constructed for Ott & Tewksbury contain the same combination?

A. They contained the identical combination.

Q. 6. State whether this first machine that you state you constructed for Ott & Tewksbury was put in operation and was exhibited in your place of business during the time of its construction and after it was completed?

A. It was in plain view where any person who might enter could see and examine it. There was no pretense to keep the machine hidden. The machine was set up and operated in our machine shop.

Q. 7. You may state at the time this machine was being constructed, and after it was completed, and in operation as you have testified, what number of men were employed by you who had access to where this machine was being operated and also, as nearly as you can, about how many people would visit your place of business at this time?

A. We had employed at that time about ten men, and perhaps thirty to forty men visited our machine shop each day; the machine was standing in full view all this time.

O. A. HOLCOMB.

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A. B. POOLE.

A. B. Poole, of lawful age, being by me first duly examined, cautioned and solemnly sworn to testify the truth, the whole truth and nothing but the truth, in answer to interrogatories proposed to him by W. R. Hazen, Esq., counsel for Axelson, Tewksbury and Ott, deposeth and saith;

Question 1. You may state your name, age, place of residence and occupation?

Answer. My name is A. B. Poole; age thirty-nine; residence, Topeka, Kansas; occupation, Treasurer of the Kansas Phonograph Company.

Q. 2. You may state whether you know of the Coin-



Operated Mechanism for Phonographs, for which a patent has been applied for Axelson, Tewksbury and Ott, parties to this interference?

A. I know of the invention.

Q. 3. You may state when you first learned anything about this invention, and from whom you learned the facts?

A. As early as May, in 1890, I had conversations with both Mr. Ott and Mr. Tewksbury regarding this invention.

Q. 4. You may state what time in May you had these conversations, and if you have any reason for fixing the date, state how you remember the particular date?

A. I had such a conversation with Mr. Ott and Mr. Tewksbury, prior to the fourth day of May, 1890, and I fix the date in this way: Mr. Ott had an engagement in Kentucky, and left Topeka for St. Louis on his way to Kentucky, on Sunday the fourth day of May, 1890. This date is fixed by letters copied in letter-book.

Q. 5. Now, how soon after this date did you have other conversations with either Mr. Ott or Mr. Tewksbury or both of them, in which this invention was discussed?

A. Well, from that time on during the summer whenever they were in town. I mean by that that the matter was talked over and considered during the summer at various times.

Q. 6. State whether any sketches or drawings of any kind were made by Ott & Tewksbury, and if so, when?

A. Drawings were made at the times of these conversations to illustrate the ideas.

Q. 7. What was the character of these sketches or drawings? On what were they made?

A. They were imperfectly and roughly made on scraps of paper that might be at hand.

Q. 8. State whether the invention explained to you by Ott & Tewksbury, as you have stated, contained a combination with the phonograph, its motor, and a circuit in which the motor lies, of a circuit-breaker connected with phonograph carriage, and mechanism for raising the diaphragm and reversing the carriage, said raising and reversing mechanism being actuated



from the main shaft of the instrument?

A. It did. Those features were essential in the thing from the inception, from the beginning.

Q. 9. Is the same combination that is used in the last machines which have been constructed for Ott & Tewksbury?

A. The present machine as it is now made, contains the same combination as was explained to me by Ott & Tewksbury as the original conception of the invention.

Q. 10. State whether this invention was explained by either Mr. Ott or Mr. Tewksbury to other persons, or to you in the presence of other persons, and if so, state the name of such persons?

A. I know of its having been talked over with Mr. Gresser and Mr. Parkinson; with Mr. Gresser subsequent to May, 1890, and with Parkinson during the last of August or the first of September, 1890.

Q. 11. State if you know whether the sketches or drawings which you have spoken about were exhibited to other persons than yourself, and if so, state when, as nearly as you can?

A. I think Mr. Gresser saw these drawings subsequent to May and during the Summer of 1890, just what dates, I could not say. It was in the last part of August or first part of September, 1890, that the idea was explained to Mr. Parkinson and drawings were made at about that time.

Q. 12. State whether you know of any models being made of this invention, and if so, by whom were they made, and at what time?

A. Mr. Parkinson commenced to work on a model early in September, 1890, and to the best of my recollection had a working model ready to try before the end of September.

Q. 13. Do you know of other models being made; if so, state all you know about such models?

A. Other models were made at various times subsequent to this date. From this time, the work of developing a perfect machine was continuous, and resulted in a model which was thought to be practicable, and which was placed in a public place in the City of Topeka for trial.

Q. 14. In what place was this last model you speak



of placed, and if you know, please state when it was so placed?

A. It was placed in Fagan Brothers' cigar store in the City of Topeka, but the date I cannot give.

Q. 15. State whether this machine last mentioned by you was a complete operating machine?

A. It was.

A. B. POOLE.

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EDWIN S. GRESSER.

Edwin S. Gresser, of lawful age, being by me first duly examined, cautioned and solemnly sworn to testify the truth, the whole truth and nothing but the truth, in answer to interrogatories proposed to him by W. R. Hazen, Esq., counsel for Axelson, Tewksbury and Ott, deposeth and saith:

Question 1. State your name, age, residence and occupation.

A. My name is Edwin S. Gresser; age, twenty-one; residence, Topeka, Kansas; occupation, collector of the First National Bank of Topeka, Kansas.

Q. 2. What has been your occupation prior to this date?

A. I was in the employ of the Kansas Phonograph Company.

Q. 3. Before entering the employ of the Kansas Phonograph Company, by whom were you employed?

A. I was in the employ of Ott & Tewksbury.

Q. 4. You may state whether at any time you took a phonograph for Messrs. Ott & Tewksbury to Mr. Parkinson of this city?

A. I took a phonograph to Mr. Parkinson's house from the Kansas Phonograph Company's office.

Q. 5 Do you remember the date of that?

A. I don't remember the exact date, but it was sometime in the latter part of September 1890.

Q. 6 What was the purpose of taking the machine to Mr. Parkinson's house, if you know?

A. He was at work upon an attachment for the



machine, when completed to be known as a nickel-in-the-slot machine.

Q. 7. Had he, within your knowledge, been constructing a machine for Ott & Tewksbury to be used in connection with the phonograph before the time of your taking this phonograph to him?

A. Yes sir, he had been working on a machine.

Q. 8. And you took this machine there for that purpose, did you?

A. Yes sir.

EDWIN S. GRESSER.

STATE OF KANSAS, } ss.:  
County of Shawnee.

I, C. H. Netters, a notary Public within and for the County of Shawnee and State of Kansas, do hereby certify that the foregoing depositions of Simon S. Ott, George E. Tewksbury, Omar A. Holcomb, A. B. Poole and Edwin S. Gresser were taken on behalf of Axelson, Tewksbury and Ott, before me, at the Office of Ott & Tewksbury, No. 111 West Ninth Street in the City of Topeka, Shawnee County, Kansas, on the fifteenth and sixteenth days of March, A. D. 1892, in pursuance of the notice hereto annexed; that each of said witnesses was by me duly sworn before the commencement of his testimony; that the testimony of each of said witnesses was written down in shorthand by myself in the presence of the witnesses, and afterwards by me reduced to common hand upon the typewriter; that the opposing parties were absent during the taking of said testimony; that said testimony was taken at the office of Ott & Tewksbury, No. 111 West Ninth Street, in the City of Topeka, Shawnee County, State of Kansas, and was commenced at 5:40 o'clock, P. M., on Tuesday, the fifteenth day of March, 1892, and was



continued pursuant to adjournment to, and concluded on the sixteenth day of March, 1892; that I am not connected by blood or by marriage with any of the parties to, nor interested directly or indirectly in the matter in controversy.

In testimony whereof, I have hereunto set my hand and affixed my seal of office at Topeka, in said County, this 21st day of March, A. D. 1892.

C. H. NETTELS,  
*Notary Public.*

My Commission expires April 6th, 1895.

[SEAL.]